

STANDARD APPLICATION

Harford County Board of Appeals

Bel Air, Maryland 21014

DEC 2 2003

HARFORD COUNTY COUNCIL

Case No.	5391
Date Filed	11/20/03
Hearing Date	
Receipt	
Fee	\$ 900 ⁰⁰

Shaded Areas for Office Use Only

Type of Application

Nature of Request and Section(s) of Code

CASE 5391 MAP 44 TYPE Special Exception and Variance

- ☐ Administrative Decision/Interpretation
☒ Special Exception
☐ Use Variance
☐ Change/Extension of Non-Conforming
☐ Minor Area Variance
☒ Area Variance
☐ Variance from Requirements of the Co
☐ Zoning Map/Drafting Correction

ELECTION DISTRICT 2 LOCATION 317 North Earlton Road, Havre de Grace, Md. 21078

BY Gary H. and Bonnie M. Greene

Appealed because a Special Exception pursuant to Section 267-53D(3) of the Harford County Code to allow a motor vehicle repair shop and a variance pursuant to Section 267-34C, Table II to allow a motor vehicle repair shop in an existing detached garage within the required 40 foot side yard setback (6 foot existing) in an Agricultural District requires approval by the Board.

NOTE: A pre-conference is required for property within the NRD/Critical Area or requests for an Integrated Community Shopping Center, a Planned Residential Development, mobile home park and Special Exceptions.

Applicant/Owner (please print or type)

Name Gary H. Greene Phone Number call attorney

Address 317 North Earlton Road in Havre de Grace, MD 21078-1627

Street Number Street City State Zip Code

Co-Applicant Bonnie M. Greene Phone Number call attorney

Address 317 North Earlton Road in Havre de Grace, MD 21078-1627

Street Number Street City State Zip Code

Contract Purchaser N/A Phone Number

Address

Street Number Street City State Zip Code

Attorney/Representative Kevin J. Mahoney, Esquire Phone Number 410-893-7500

Address 11 S. Main St., PO Box 1776, Bel Air, MD 21014

Street Number Street City State Zip Code

Hearing: 2/4/04 Rev. 12/00

Land Description

Address and Location of Property 317 North Earlton Road, South of Kevin Road, in Havre de Grace,
Maryland, Harford County.

Subdivision N/A Lot Number N/A

Acreage/Lot Size 4.89AC Election District 02 Zoning AG

Tax Map No. 44 Grid No. 2C Parcel 67 Water/Sewer: Private ☒ Public ☐

List ALL structures on property and current use: single-family residential dwelling, pole barn,
above-ground pool, shed and garage.

Estimated time required to present case: 30 minutes

If this Appeal is in reference to a Building Permit, state number N/A

Would approval of this petition violate the covenants and restrictions for your property? NO

Is this property located within the County's Chesapeake Bay Critical Area? Yes ☐ No ☒

If so, what is the Critical Area Land Use designations: _____

Is this request the result of a zoning enforcement investigation? Yes ☒ No ☐

Is this request within one (1) mile of any incorporated town limits? Yes ☐ No ☒

Request

See Attached

Justification

See Attached

If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)

REQUEST

1. Special Exception, pursuant to Section 267-53(d)(3), to allow a motor vehicle repair shop in the AG agricultural district.

2. Variance from the requirements of Section 267-34(c), Table II, to allow a motor vehicle repair shop in an existing detached garage within the 40 ft. side yard setback (6 ft. existing) in the AG Agricultural District.

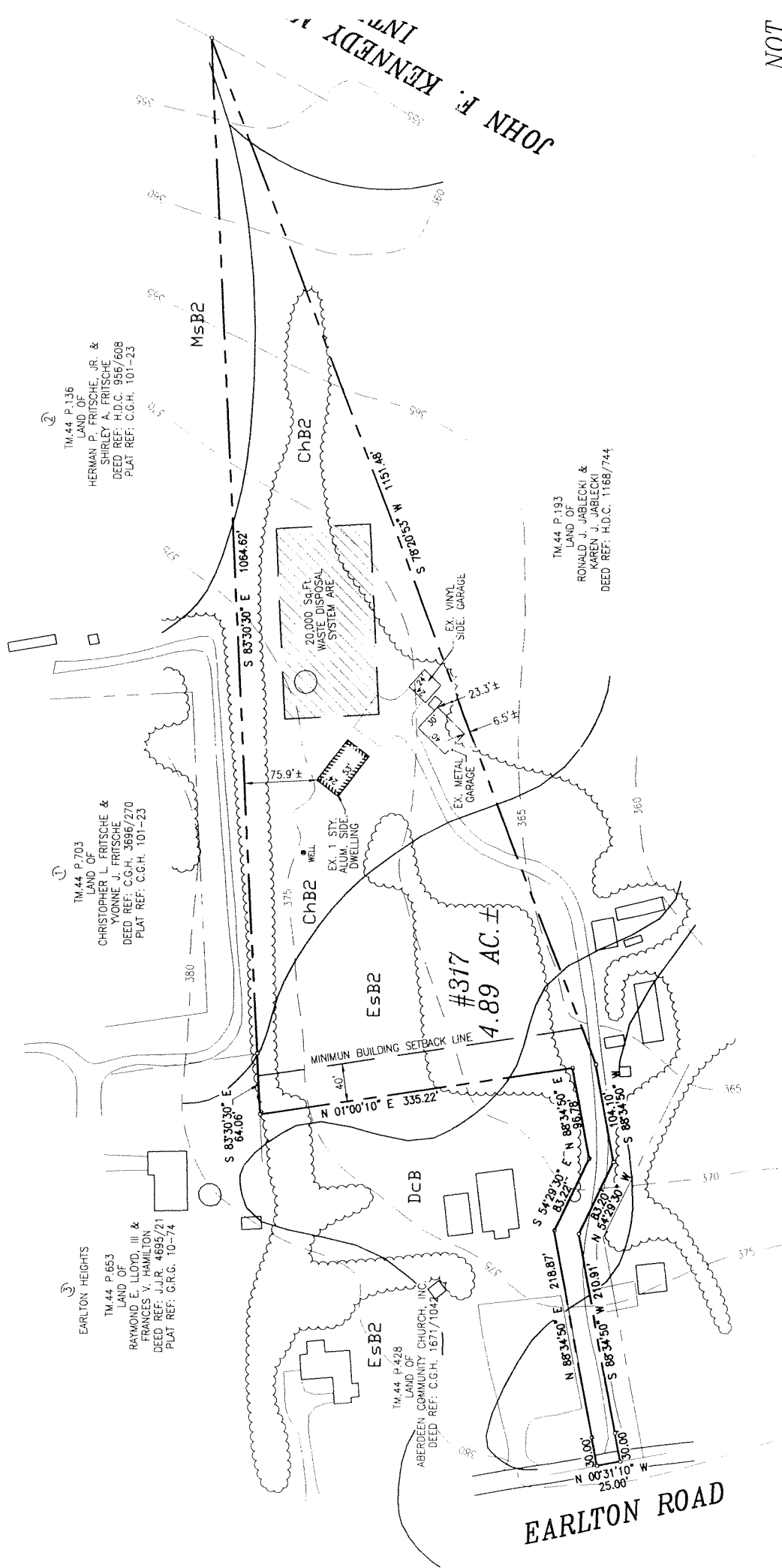
JUSTIFICATION

The proposed use on the subject property satisfies all of the requirements of the Harford County Zoning Code with the exception of the two variances requested. The applicant is disabled. The proposed use allows him a limited income stream but, as a result of his disability, the intensity of the use would be minimal.

The proposed use would not have any adverse impact on surrounding properties which is greater than the use would have regardless of its location within the agricultural zone. The property is adequately screened from surrounding properties. Consents have been obtained from all adjoining property owners to the requested relief.

The property is uniquely shaped. The existing garage building was constructed with a permit from Harford County in its current location. The 40 ft. setback only applies to the garage when used for the proposed commercial use. The nearest adjoining residence is over 300 feet from the garage.

1.) PRESENT Z
SETBACK REC
FRONT: 40
SIDE: 4
REAR: 4



JAMES M. HARKINS
HARFORD COUNTY EXECUTIVE

JOHN J. O'NEILL, JR.
DIRECTOR OF ADMINISTRATION



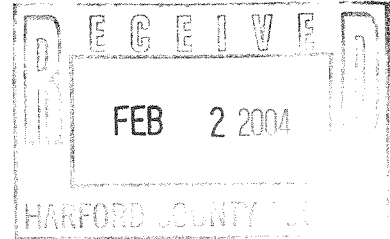
J. STEVEN KALL-ZIEGLER
DIRECTOR OF PLANNING & ZONING

HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

February 2, 2004

STAFF REPORT



BOARD OF APPEALS CASE NO. 5391

APPLICANT/OWNER: Gary H. Greene
317 North Earlton Road, Havre de Grace, Maryland 21078-1627

Co-APPLICANT/OWNER: Bonnie M. Greene
317 North Earlton Road, Havre de Grace, Maryland 21078-1627

REPRESENTATIVE: Kevin J. Mahoney, Esquire
11 South Main Street, P.O. Box 1776, Bel Air, Maryland 21014

LOCATION: 317 North Earlton Road
Tax Map: 44 / Grid: 2C / Parcel: 67
Election District: Second (2)

ACREAGE: 4.89 acres

ZONING: AG/Agricultural

DATE FILED: November 20, 2003

HEARING DATE: February 11, 2004

APPLICANTS' REQUEST and JUSTIFICATION:

See Attachment 1.

Preserving our values, protecting our future

STAFF REPORT

Board of Appeals Case Number 5391

Gary & Bonnie Greene

Page 2 of 9

CODE REQUIREMENTS:

The Applicants are requesting a Special Exception pursuant to Section 267-53D(3) of the Harford County Code, to allow a motor vehicle repair shop and a variance pursuant to Section 267-34C, Table II, to allow a motor vehicle repair shop in an existing detached garage within the required 40-foot side yard setback (6-foot existing) in an Agricultural District.

Section 267-53D(3) of the Harford County Code reads:

- (3) *Motor vehicle repair shops. These uses may be granted in the AG and B1 Districts, provided that:*
- (a) *A buffer yard at least 10 feet wide shall be provided along any adjacent road right-of-way or adjacent residential lot.*
 - (b) *The requirements of § 267-39C(7) of this chapter for service stations and repair shops in the B2 and B3 Districts shall be met.*
 - (c) *Unless Board approval is granted, accessory buildings and outdoor storage of vehicles, tires, and equipment shall be prohibited.*
 - (d) *The operator of the shop shall maintain a log of all vehicles repaired. For each vehicle, the log shall include the vehicle identification number and a description of the vehicle and identify the dates the vehicle arrived and was removed. The log shall be available for inspection during normal business hours. If no log exists, it shall be assumed for the purposes of § 267-39C(7)(f) that each vehicle has been stored on the property for 90 days.*
 - (e) *The rental or storage of trailers, boats, and trucks shall be prohibited.*
 - (f) *Proposed outdoor storage areas and refuse storage areas shall be fenced or screened from adjacent properties and shown on the site plan submitted for Board approval.*
 - (g) *Materials, textures, colors and designs of fences, walls, and screening shall be compatible with the on-site development, adjacent properties, and the neighborhood. When a wall is required, a planting strip at least 5 feet wide shall be provided also and shall include trees and shrubs that are at least 2 feet high when planted and that may be expected to form a year-round dense screen within 3 years. The location and species of trees and shrubs used for screening shall be chosen with consideration for the size of the trees and shrubs at maturity. Fences, walls, screening, and planting strips shall be located so that they do not constitute sight obstructions for the drivers of vehicles entering or exiting the parcel or any adjacent lot or parcel.*

STAFF REPORT

Board of Appeals Case Number 5391

Gary & Bonnie Greene

Page 3 of 9

- (h) The fumes, odors and noise from the vehicle-related work shall be minimized.*
- (i) A minimum parcel area of 1 acre shall be required.*
- (j) In the AG District, the use shall be operated by the resident of the property.*

Enclosed with the report is a copy of Section 267-34C, Table II of the Harford County Code (Attachment 2).

Enclosed with the report is a copy of Section 267-51 and 267-52 of the Harford County Code (Attachment 3).

Section 267-9I of the Harford County Code will be discussed in detail later in the report.

LAND USE and ZONING ANALYSIS:

Land Use – Master Plan:

The subject property is located on the east side of Earlton Road approximately 1,000-feet north of Interstate I-95. A location map and a copy of the Applicants' site plan are enclosed with the report (Attachments 4 and 5).

This area of the County is located outside of the Development Envelope. The predominant land use designation is Agricultural/AG Residential. The Natural Resources Map reflects parks, stream buffer systems and Agricultural Preservation Districts and Easements. The Applicants' property is located in the Agricultural/AG Residential designation, which is defined by the 1996 Master Plan as:

Agricultural/AG Residential – Areas where agriculture is the primary land use. Where developments rights are available, residential development at a density of 1.0 dwelling unit for every 10 acres is possible. Commercial uses within this area are intended to serve the agriculture industry or residents of the area.

Enclosed with the report are copies of portions of the 1996 Land Use Map and the Natural Resources Map (Attachments 6 and 7).

Land Use – Existing:

The existing land uses in this area of the County conform to the overall intent of the 1996 Master Plan. There are no major residential developments in the area; however, there are several scattered residential subdivisions. The predominant land use is Agriculture, which includes cropland, pastureland and large areas of dense woodland. Enclosed with report is a copy of the aerial photograph (Attachment 8).

STAFF REPORT

Board of Appeals Case Number 5391

Gary & Bonnie Greene

Page 4 of 9

The property is located on the east side of Earlton Road approximately 1,000-feet north of Interstate I-95. The parcel has an unusual shape. The main body of the property is triangular in shape, sitting approximately 400± feet back from Earlton Road on a 25-foot panhandle. The lot, including the panhandle strip, is approximately 4.98 acres in size. The rear portion of the lot comes to a point that touches the Interstate I-95 right-of-way. The topography of the property is rolling (Attachment 9). Improvements consist of a frame single-family rancher styled dwelling, a frame two-car garage, a larger butler styled building of metal and steel construction and a large blacktopped parking and turning area located between the dwelling and accessory structures. A blacktopped driveway extends out to Earlton Road. The driveway appears to be shared with the uses on the adjoining properties. As the site plan and aerial photograph reveal, portions of the property are densely wooded and back up to larger areas of dense woodland. The improvements are located approximately 800-feet back from Earlton Road. The private garage and metal building housing the repair shop are located to the southern property line and adjacent to a large area of dense woodland. The immediate surrounding land uses range from Agricultural to single-family residences to institutional. The church (Tabernacle of Faith Church) was the subject of a Board of Appeals approval, Case 5101 that was approved January 26, 2001, for an extension of their building (Attachment 10).

Due to the location of the buildings along with the natural features of the subject site and adjacent properties, the Applicants' request should have little or no impact on the overall neighborhood. Enclosed with the report is a copy of site photographs along with an enlargement of the aerial photograph (Attachments 11 and 12).

Zoning:

The zoning classifications conform to the intent of the Master Plan as well as the existing land uses. The predominant zoning classification in the area is AG/Agricultural. There is a large area of RR/Rural Residential across from the subject property. The subject property is zoned AG/Agricultural. Enclosed with the report is a copy of the zoning map (Attachment 13).

Zoning Enforcement:

The subject request is the result of a zoning enforcement investigation. This Department received a complaint on June 18, 2003, that an auto repair business was being operated from a garage and seven to nine vehicles were parked on the property. A site inspection was conducted on June 20, 2003, whereby the inspector reported that there were in fact seven to nine vehicles parked near the garage and that it appeared that a repair garage was operational. Another inspection was conducted on June 27, 2003, and at that time the inspector spoke with the property owner. There were eight vehicles parked at the site. The Applicants informed the inspector that they had five daughters and were doing some repairs to the vehicles. On August 5, 2003, this Department sent the Applicants a letter stating the findings of the inspection and suggested that they contact the Department within 20 days of the letter. A follow-up inspection on August 29, 2003, revealed that the vehicles had been removed. A pre-application meeting

STAFF REPORT

Board of Appeals Case Number 5391

Gary & Bonnie Greene

Page 5 of 9

was scheduled for October 8, 2003 prior to making application to the Board of Appeals. A copy of the inspection file is enclosed with the report (Attachment 14).

SUMMARY:

The Applicants are requesting a Special Exception pursuant to Section 267-53D(3) of the Harford County Code, to allow a motor vehicle repair shop and a variance pursuant to Section 267-34C, Table II, to allow a motor vehicle repair shop in an existing detached garage within the required 40-foot side yard setback (6-foot existing) in an Agricultural District.

Section 267-53D(3):

- (3) [Amended by Bill No. 93-10] Motor vehicle repair shops. These uses may be granted in the AG and B1 Districts, provided that:

The subject property is zoned AG/Agricultural.

- (a) *A buffer yard at least 10 feet wide shall be provided along any adjacent road right-of-way or adjacent residential lot.*

The subject garage is approximately 750-feet back from the road and with natural features of the area the improvements are not visible from Earlton Road. The parcel adjacent to the garage location is not a residential lot.

- (b) *The requirements of Section 267-39C(7) of this Chapter for service stations and repair shops in the B2 and B3 Districts shall be met.*

The Applicants can meet these requirements. A detailed site plan will be required to be submitted for review and approval through the Development Advisory Committee.

- (c) *Unless Board approval is granted, accessory buildings and outdoor storage of vehicles, tires and equipment shall be prohibited.*

This Department is recommending that not more than 4-vehicles waiting repair be permitted on the site other than the Applicants' own vehicles. The garage appears to be large enough to house approximately 2 vehicles and the other 2 would be parked on the asphalt area between the dwelling and garage. The improvements sit far enough back from the road and other land uses separated by trees and other natural features that the storage of two vehicles should not create adverse impacts.

- (d) *The operator of the shop shall maintain a log of all vehicles repaired. For each vehicle, the log shall include the vehicle identification number and a description of the vehicle and identify the dates the vehicle arrived and was removed. The log*

STAFF REPORT

Board of Appeals Case Number 5391

Gary & Bonnie Greene

Page 6 of 9

shall be available for inspection during normal business hours. If no log exists, it shall be assumed for the purpose of Section 267-39C(7)(f) that each vehicles has bee stored on the property for 90 days.

The Applicants shall present to the Department of Planning and Zoning a copy of the type of log that will be kept on each vehicle, prior to issuance of a zoning certificate for the subject business.

(e) The rental or storage of trailers, boats and trucks shall be prohibited.

The request is for a motor vehicle repair business only.

(f) Proposed outdoor storage areas and refuse storage areas shall be fenced or screened from adjacent properties and shown on the sit plan submitted of the Board Approval.

There was no trash, junk and or debris observed on the property at the time of site inspections. The Applicants will be responsible for the disposal of the used parts after completing repairs to the subject vehicles and shall keep such parts and debris in the building until they are removed from the property.

(g) Materials, textures, color and designs of fences, walls and screening shall b compatible with the on-site development, adjacent properties, and the neighborhood. When a wall is required, a planting strip at least 5 feet wide shall be provided also and shall include trees and shrubs that are at least 2 feet high when planted and that may be expected to form a year-round dense screen within 3 years. The location and species of trees and shrubs used for screening shall be chosen with consideration for the size of the trees and shrubs at maturity. Fences, walls, screening, and planting strips shall be located so that they do not constitute sight obstructions for the drives of vehicles entering or exiting the parcel or any adjacent lot or parcel.

This section is not applicable to the request. The existing trees, topography, and locations of the existing improvements are such that the use is not visible from adjacent residential uses or from the public road. The existing garage is a neutral color and blends well with the neighborhood. With the area having large active farms the size of the subject building is not out of character with the neighborhood.

(h) The fumes, odors and noise from the vehicles-related work shall be minimized.

The use will be required to meet the requirements of the State Health Department for this type of use as well as with the Fire Marshals office.

STAFF REPORT

Board of Appeals Case Number 5391

Gary & Bonnie Greene

Page 7 of 9

- (i) *A minimum parcel area of acre shall be required.*

The Applicants' property is 4.89 acres in size.

- (j) *In the AG District, the use shall be operated by the resident of the property.*

The Applicants own and resides on the subject property.

Section 267-9I:

- (1) *The number of persons living or working in the immediate area.*

With proper conditions, the Applicants' request should have no adverse impact on the surrounding neighborhood. It is recommended that a condition be placed on the approval that no more than four vehicles be located on site for repairs other than the Applicants' own vehicles.

- (2) *Traffic conditions, including facilities for pedestrians, such as sidewalks and parking facilities, the access of vehicles to roads; peak periods of traffic, and proposed roads, but only if construction of such roads will commence within the reasonably foreseeable future.*

The Harford County Transportation Plan lists Earlton Road as a minor collector-rural road. Sight distance at the driveway entrance is good in both directions. Given the limited nature of the business, traffic should not be an issue.

- (3) *The orderly growth of the neighborhood and community and the fiscal impact on the County.*

The proposed use is permitted in the AG/Agricultural District as a special exception with Board approval. The request is for a small repair facility, which should not create any fiscal impact on the County. The repair shop is located more than 300-feet from the nearest residence.

- (4) *The effect of odors, dust, gas, smoke, fumes, vibration, glare and noise upon the use of surrounding properties.*

The proposal should not have an adverse impact regarding any of the above issues. The Health Department and the State Fire Marshal's Office will monitor the operation of the garage.

- (5) *Facilities for police, fire protection, sewerage, water, trash and garbage collection and disposal and the ability of the County or persons to supply such services.*

The Harford County Sheriff's Office and the Maryland State Police will provide police protection. There are three volunteer fire departments that could provide fire protection and emergency assistance, Level, Aberdeen and Havre de Grace volunteer fire departments. The

STAFF REPORT

Board of Appeals Case Number 5391

Gary & Bonnie Greene

Page 8 of 9

property is presently being served by private well and septic systems. The Applicants will be required to meet all requirements of the Health Department for containment of fluids and wastes from the vehicles parked or repaired on site. The Applicants are required to arrange for trash collection with a private hauler.

- (6) *The degree to which the development is consistent with generally accepted engineering and planning principles and practices.*

The proposal is consistent with accepted planning principles. There are specific requirements for a motor vehicle repair businesses pursuant to Section 267-53D(3) of the Harford County Code. The Applicants can meet these standards.

- (7) *The structures in the vicinity, such as schools, houses of worship, theaters, hospitals and similar places of public use.*

The Tabernacle Faith Church adjoins the front of the Applicants' property, separating it from Earlton Road. The Applicants' driveway is to the right side of their property with a 40- to 80-foot separation between the driveway and the actual Church structure as shown on the Applicants' site plan (Attachment 5). The request should not adversely impact the adjoining church.

- (8) *The purposes set forth in this Part 1, the Master Plan and related studies for land use, roads, parks, schools, sewers, water, population, recreation and the like.*

The proposal is consistent with the intent of the Master Plan.

- (9) *The environmental impact, the effect on sensitive natural features and opportunities for recreation and open space.*

There are no environmental features located on this property, which would be impacted by the request.

- (10) *The preservation of cultural and historic landmarks.*

Not applicable to the request.

VARIANCE REQUEST:

Variances of this nature may be approved by the Board of Appeals pursuant to Section 267-11 of the Harford County Code, provided it finds by reason of the uniqueness of the property or topographical conditions that literal enforcement of the Code would result in practical difficulty and undue hardship. Further, the Applicants must show that the request will not be substantially detrimental to adjacent properties or will not materially impair the purpose of the Code or the public interest.

STAFF REPORT

Board of Appeals Case Number 5391

Gary & Bonnie Greene

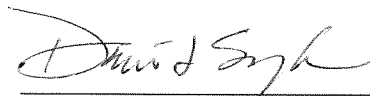
Page 9 of 9

The Department finds that the property is unique. The property has an unusual slope and the existing building is located next to a heavily wooded area. The nearest adjacent residence is over 300-feet away.

RECOMMENDATION and or SUGGESTED CONDITIONS:

The Department of Planning and Zoning recommends that the request be approved subject to the following conditions:

1. The Applicants prepare a detailed site plan to be reviewed and approved through the Development Advisory Committee.
2. The Applicants shall maintain the existing screening to the subject property.
3. The business shall be limited to only four vehicles waiting repair in addition to the Applicants' own vehicles.
4. The hours of operation shall be limited to 8 am to 8 pm Monday through Saturday with no Sunday operation.
5. Lighting shall be designed to shine down on the subject property and not impact adjacent properties.
6. The Applicants shall maintain a log pursuant to Section 267-53D(3d).
7. The Applicants shall obtain all necessary permits and inspections for the repair facility.
8. This approval is for the Applicants only and shall terminate upon sale or transfer of the property.



Dennis J. Sigler, Coordinator
Zoning & Board of Appeals Review



Anthony S. McClune, AICP
Deputy Director, Planning and Zoning

DJS/ASM/ka